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MESSAGE REJECTED - CONTAINS UNRECOGNIZED ORIGINATOR  
-- ERRORED MESSAGE FOLLOWS --  
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RUFOADA/JAC MOLESWORTH RAF MOLESWORTH UK  
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UNCLAS SECTION 01 OF 03 PODGORICA 000100

SIPDIS

SENSITIVE  
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E.O. 12958: N/A  
TAGS: PGOV PREL MW  
SUBJECT: MONTENEGRO SENDS DRAFT CONSTITUTION TO PUBLIC

REF: PODGORICA 32

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SENSITIVE BUT UNCLASSIFIED - PLEASE HANDLE ACCORDINGLY

1.(U) SUMMARY: ON APRIL 2, MONTENEGRO'S PARLIAMENT SENT THE DRAFT CONSTITUTION TO THE PUBLIC FOR THIRTY DAYS OF DEBATE. MPS AGREED THAT "85 PERCENT" OF THE TEXT IS SETTLED, BUT CONTENTIOUS ISSUES TOUCHING ON ETHNIC IDENTITY, SUCH AS LANGUAGE, RELIGION, AND NATIONAL SYMBOLS, ARE EXTENSIVELY BRACKETED. THE PUBLIC DISCUSSION IS UNLIKELY TO REACH CLOSURE ON SUCH ISSUES. IN MAY THE PARLIAMENT WILL START HORSE-TRADING AS THE GOVERNMENT SEEKS 13 VOTES TO REACH THE 54 OF 81 MPS (2/3) NEEDED TO ADOPT THE CONSTITUTION WITHOUT A PUBLIC REFERENDUM. END SUMMARY.

12. (U) MONTENEGRO'S CURRENT CONSTITUTION DATES TO 1992, LONG BEFORE INDEPENDENCE. THE PARLIAMENT ELECTED LAST SEPTEMBER HAS BEEN SITTING AS BOTH A CONSTITUTIVE AND LEGISLATIVE ASSEMBLY. OVER A PERIOD OF MONTHS, IT REACHED AGREEMENT ON "85 PERCENT" OF THE DRAFT CONSTITUTION, IN AREAS DEALING WITH GOVERNMENT STRUCTURE AND HUMAN RIGHTS. HOWEVER, THE PREAMBLE IS RIDLED WITH PROPOSED CHANGES, AS PARTIES WRANGLE OVER MONTENEGRO'S "IDENTITY" - AS EITHER A "CIVIC STATE" (A DEFINITION ENDORSED, EVEN REQUIRED, BY THE COUNCIL OF EUROPE), OR AS A AMALGAMATION OF SEVERAL ETHNIC PEOPLES. THIS HAS MANIFESTED ITSELF AS A CONTEST OVER SUCH ISSUES AS THE NATIONAL ANTHEM, FLAG, THE NAME (BUT NOT THE ESSENTIAL CHARACTER) OF THE PREDOMINANT LANGUAGE, AND THE RELATIVE STATUS OF THE SERBIAN AND MONTENEGRIN ORTHODOX CHURCHES.

13. (U) POLOFF DISCUSSED THE SUBSTANCE AND PROCESS OF ADOPTING THE CONSTITUTION WITH GOVERNMENT AND MODERATE OPPOSITION MPS APRIL 4-5, AND WITH ONE OF MONTENEGRO'S REPRESENTATIVES TO THE COUNCIL OF EUROPE'S "VENICE COMMISSION," WHICH ADVISES ON CONSTITUTIONAL MATTERS.

DPS: "ALL COMPROMISES" OK, EXCEPT ...

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14. (SBU) MIODRAG VUKOVIC IS THE PARTY WHIP FOR THE LARGEST GOVERNING PARTY, THE DEMOCRATIC PARTY OF SOCIALISTS (DPS), AND THE DPS'S LEADING CONSTITUTIONAL EXPERT IN PARLIAMENT. HE TOLD POLOFF THAT 62-63 PERCENT OF MPS WOULD VOTE FOR THE GOVERNMENT'S TEXT TODAY, JUST SHORT OF THE 2/3 NEEDED FOR PASSAGE WITHOUT A REFERENDUM. HE SURMISED THAT AN "ANTI-CONSTITUTIONAL" BLOC WAS FORMING, CENTERED ON THE SERBIAN PEOPLES PARTY (SNS) AND THE 12 SEATS OF THE "SERBIAN LIST." TO FORESTALL ITS EFFORTS, THE DPS IS READY FOR "ALL COMPROMISES" ON THE TEXT, EXCEPT THOSE THAT ARE "COMPOSED OF SOMEBODY'S SHORT-TERM POLITICAL AGENDA", DO NOT "REFLECT THE MAJORITY WILL OF THE CITIZENS", OR ARE NOT "IN ACCORD WITH THE REQUIREMENTS OF EUROPEAN AND EURO-ATLANTIC INTEGRATION."

PZP: ANGLING FOR EARLY ELECTIONS

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15. (SBU) NEBOJSA MEDOJEVIC, LEADER OF THE MODERATE MOVEMENT FOR CHANGES (PZP), TOLD POLOFF THAT HE IS LOOKING TO LEVERAGE HIS PARTY'S 11 VOTES FOR POLITICAL ADVANTAGE. "EVEN IF WE ARE IN 100 PERCENT AGREEMENT WITH THE TEXT, THERE WILL BE NO PZP VOTES FOR THE CONSTITUTION WITHOUT AGREEMENT THAT PARLIAMENTARY ELECTIONS WILL BE HELD IN 2008." (NOTE: TWO YEARS EARLY. END NOTE.) BOTH DPS'S VUKOVIC AND SNP LEADER SRDJAN MILIC REJECTED MEDOJEVIC'S "FALSE COMPROMISES."

JUDICIAL REFORM

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16. (U) WITHIN THE TEXT, MEDOJEVIC FOCUSED ON THE PROCESS FOR SELECTING JUDGES. HE SAID PZP FAVORS MINIMIZING PARLIAMENT'S CURRENT ROLE IN FAVOR OF A JUDICIAL COUNCIL, ITSELF APPROVED BY  
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A 2/3 VOTE IN PARLIAMENT, THAT WOULD SELECT JUDGES AND PROSECUTORS BASED ON THE "HIGHEST INTERNATIONAL STANDARDS." ADDITIONALLY, THE ENTIRE JUDICIARY SHOULD RESIGN, TO SWEEP OUT CORRUPT JUDGES, WHILE ALLOWING COMPETENT OFFICIALS TO BE RE-INSTATED. SNP'S MILIC WAS IN BROAD AGREEMENT, PROPOSING A DETAILED JUDICIAL COUNCIL COMPOSITION LIKE THAT IN BULGARIA, TO REMOVE "OVERLY PARTISAN" JUDGES.

DEFENSE ISSUES

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17. (SBU) MEDOJEVIC DEFENDED PZP'S PROPOSAL TO REQUIRE A 2/3 PARLIAMENTARY VOTE TO PERMIT UNITS OF MONTENEGRO'S ARMED FORCES TO JOIN "INTERNATIONAL FORCES," AS PROVIDING OVERSIGHT ON MONTENEGRO'S ACTIVITIES IN NATO. HOWEVER, PZP IS ISOLATED ON

THIS POINT, WITH DPS'S VUKOVIC DISMISSING THE AMENDMENT, AND SNP'S MILIC FAVORING AN OVERSIGHT ROLE FOR PARLIAMENT PATTERNED ON THAT WHICH HE WITNESSED LAST MONTH AS NDI'S GUEST ON THE HILL IN WASHINGTON.

SNP: LEGISLATIVE OVERSIGHT KEY

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¶ 18. (SBU) THE SOCIALIST PEOPLE'S PARTY (SNP) HAS EIGHT SEATS AND, IN THE WORDS OF ITS LEADER SRDJAN MILIC, A STRONG "WISH TO BE AMONG THE 2/3 OR 3/4 OF THE PARLIAMENT THAT SUPPORTS THE CONSTITUTION." A KEY GOAL OF THE SNP IS TO CREATE AND ENSURE A STRONG ROLE FOR THE PARLIAMENT, WITH INVESTIGATIVE AND OVERSIGHT POWERS WITH RESPECT TO THE GOVERNMENT. A KEY SNP AMENDMENT WOULD ALLOW ANY 15 MPS TO DEMAND THAT AN OVERSIGHT COMMITTEE BE ESTABLISHED ON ANY GIVEN ISSUE. (NOTE: NEW RULES ADOPTED BY THE CURRENT PARLIAMENT CREATED A STRONGER COMMITTEE SYSTEM, AND WITH IT THE BEGINNING OF A PARLIAMENTARY INVESTIGATIVE AND OVERSIGHT ROLE. THE RULES WERE DRAFTED AND PROPOSED BY USAID IMPLEMENTER NDI. END NOTE.)

VENICE COMMISSION: OBSERVATIONS, BUT NO REPORT

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¶ 19. (U) SRDJAN DARMANOVIC, WHO REPRESENTS MONTENEGRO ON THE COUNCIL OF EUROPE'S VENICE COMMISSION, OBSERVED THAT 5/6 OF THE PROPOSED AMENDMENTS TOUCH ON ISSUES IN THE PREAMBLE, WHICH ARE THEMSELVES ISSUES NOT NORMALLY ADDRESSED IN A CONSTITUTION, SUCH AS NATIONAL SYMBOLS, RELIGIONS, AND ETHNIC COMPOSITION. HE DOUBTED THAT THE CURRENT PUBLIC DISCUSSION WOULD RESOLVE ANY SUCH ISSUES. HE NOTED THAT WHILE THE VENICE COMMISSION WILL HOLD A ROUNDTABLE ON THE DRAFT THIS MONTH, AND MAKE (EXTENSIVE) COMMENTS ON THE TEXT, IT WOULD NOT ISSUE A FORMAL REPORT. THE COMMISSION CANNOT ISSUE A REPORT OUTSIDE OF ITS FORMAL MEETING STRUCTURE, AND IT DOES NOT MEET AGAIN UNTIL JUNE.

¶ 10. (SBU) DARMANOVIC IS ALSO AN EXPERIENCED OBSERVER OF MONTENEGRIN POLITICS. HE SAW THE SERBIAN LIST AND SNS ISOLATING ITSELF BY INSISTING ON AN ETHNICITY-BASED CONSTITUTION, WHEN THE GOVERNING PARTIES HAD CLEAR SUPPORT FOR A CIVIC STATE FROM PZP AND SNP. HE FORESAW COMPROMISES ON THE CONTENTIOUS PREAMBULAR ISSUES, FORESHADOWED BY PRESIDENT VUJANOVIC'S PROPOSALS ON A NAME FOR THE PREDOMINANT LANGUAGE, "MONTENEGRIN-SERB." HE ALSO DID NOT SEE PZP GETTING ITS WAY ON EARLY ELECTIONS, AND EXPECTS THAT A PROLONGED PUSH FOR SUCH WOULD DRAW A "EUROPEAN" REACTION AGAINST MEDOJEVIC.

COMMENT

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¶ 11. (SBU) THE COUNCIL OF EUROPE MADE CLEAR EARLY ON ITS DEMANDS THAT MONTENEGRO BE CONSTITUTIONALLY CHARACTERIZED AS A "CIVIC" STATE, A STANCE ALREADY ACCEPTED BY A 2/3 MAJORITY IN

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PARLIAMENT. THE RULING COALITION IS, UNDERSTANDABLY, NOT CONCERNED THAT IT COULD LOSE A PUBLIC REFERENDUM ON THE CONSTITUTION (IT WOULD ONLY NEED MAJORITY SUPPORT). IT WOULD PREFER HOWEVER A "CONSENSUS" TEXT, ONE THAT GARNERED 54 VOTES OR MORE IN PARLIAMENT, TO OBLIVIATE THE NEED FOR A REFERENDUM. POST CONSEQUENTLY EXPECTS DPS AND SDP TO GIVE GROUND ON APPOINTMENT OF JUDGES AND PERHAPS ON PARLIAMENTARY OVERSIGHT TO GET THE NEEDED VOTES FROM THE PZP AND SNP IN THE MODERATE OPPOSITION, AND TO MAKE OTHER REFINEMENTS TO THE TEXT TO ENHANCE PROTECTION OF MINORITY RIGHTS (E.G., SUPERMAJORITY TO ALTER MINORITY PROTECTIONS; A LOWERED THRESHOLD FOR ETHNIC PARTIES TO ENTER PARLIAMENT, WHILE ABOLISHING "SET-ASIDE" SEATS; AND THE LIKE). WHILE IT IS ISSUES LIKE RELIGION AND THE FLAG THAT HAVE BEEN AT THE CENTER OF DEBATE, POST EXPECTS A SERIES OF MODERATING COMPROMISES TO BE MADE ON THESE ISSUES. AFTER THE TEXT RETURNS TO PARLIAMENT, POST FORESEES SEVERAL MORE WEEKS OF DEBATE AND NEGOTIATION BEFORE THE VOTE TO ADOPT THE CONSTITUTION IS TAKEN. IF THE VOTE FAILS TO GET 2/3 SUPPORT, THE REQUIRED REFERENDUM WILL LIKELY BE HELD IN THE FALL. END COMMENT.

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